
TITLE 326 AIR POLLUTION CONTROL BOARD

**FINDINGS AND DETERMINATION OF THE COMMISSIONER
PURSUANT TO [IC 13-14-9-8](#) AND DRAFT RULE
LSA Document #07-840****DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING ATTAINMENT REDESIGNATIONS FOR
BOONE, HAMILTON, HANCOCK, HENDRICKS, JOHNSON, MADISON, MARION, MORGAN, AND SHELBY
COUNTIES****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) has developed draft rule language for amendments to [326 IAC 1-4](#) concerning redesignation of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby counties to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS). IDEM is soliciting written comment on the draft rule language and will schedule a public hearing before the Air Pollution Control Board (board) for consideration of adoption of these rules.

CITATIONS AFFECTED: [326 IAC 1-4](#).

AUTHORITY: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

STATUTORY REQUIREMENTS

[IC 13-14-9-8](#) recognizes that under certain circumstances it may be appropriate to reduce the number of public comment periods and public hearings routinely provided. In cases where the commissioner determines that there is no anticipated benefit from a second public comment period and first public hearing, IDEM may forgo these opportunities for public comment and proceed directly to the public hearing and board meeting at which the draft rule is considered for adoption. Two opportunities for public comment (with this notice and at the public hearing prior to adoption of the rule) remain under this procedure.

If the commissioner makes the determination of no anticipated benefit required by [IC 13-14-9-8](#), the commissioner shall prepare written findings and publish those findings in the Indiana Register prior to the board meeting at which the draft rule is to be considered for adoption and include them in the board packet prepared for that meeting. This document constitutes the commissioner's written findings pursuant to [IC 13-14-9-8](#).

The statute provides for this shortened rulemaking process if the commissioner determines that:

(1) the rule constitutes:

(A) an adoption or incorporation by reference of a federal law, regulation, or rule that:

(i) is or will be applicable to Indiana; and

(ii) contains no amendments that have a substantive effect on the scope or intended application of the federal law or rule;

(B) a technical amendment with no substantive effect on an existing Indiana rule; or

(C) a substantive amendment to an existing Indiana rule, the primary and intended purpose of which is to clarify the existing rule; and

(2) the rule is of such nature and scope that there is no reasonably anticipated benefit to the environment or the persons referred to in [IC 13-14-9-7](#)(a)(2) from:

(A) exposing the rule to diverse public comment under [IC 13-14-9-3](#) or [IC 13-14-9-4](#);

(B) affording interested or affected parties the opportunity to be heard under [IC 13-14-9-3](#) or [IC 13-14-9-4](#); and

(C) affording interested or affected parties the opportunity to develop evidence in the record collected under [IC 13-14-9-3](#) and [IC 13-14-9-4](#).

BACKGROUND

On April 30, 2004, U.S. EPA published nonattainment designations for all or part of 24 Indiana counties for the 8-hour ozone NAAQS (69 FR 23858) that became effective on June 15, 2004. The standard is set at 0.08 parts per million (ppm). Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby counties were designated as basic nonattainment for the standard. These designations require Indiana to develop a plan to reduce volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) emissions and to make a demonstration that the areas will meet the 8-hour ozone NAAQS by June 15, 2009.

Ozone monitoring data and photochemical modeling analyses now demonstrate that air quality has met the NAAQS for ozone in Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby counties (Central Indiana area) in advance of the development of an attainment plan. Air quality in this area has improved largely as a result of regional NO_x reductions from power plants implemented in 2004. As a result, Indiana has requested U.S. EPA to change the 8-hour ozone designation for the Central Indiana area from

nonattainment to attainment. Indiana submitted the redesignation request on March 26, 2007, for the Central Indiana area. Included with this request was a summary of relevant air quality data, evidence of the opportunity for public review of the request, including a public hearing, and a discussion of how the various criteria for redesignation have been met.

This rulemaking will incorporate into state rules the final federal approval for redesignating Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby counties to attainment for the 8-hour ozone NAAQS. [326 IAC 1-4](#) was final adopted as reformatted by the board on October 3, 2007. These amendments are formatted for this final adopted rule. A temporary emergency rule incorporating these redesignations to attainment was adopted by the board on November 7, 2007, and was effective November 8, 2007.

[IC 13-14-9-4](#) Identification of Restrictions and Requirements Not Imposed Under Federal Law

No element of the draft rule imposes either a restriction or a requirement on persons to whom the draft rule applies that is not imposed under federal law. This draft rule imposes no restrictions or requirements because it is a direct adoption of federal requirements that are applicable to Indiana and contains no amendments that have a substantive effect on the scope or application of the federal rule.

Potential Fiscal Impact

This rulemaking will have no fiscal impact because it is an incorporation of the federal redesignation of the nine Central Indiana counties to attainment for the 8-hour ozone standard. Implementation and enforcement of the new rule will require no additional fiscal expenditures by IDEM above and beyond current federal requirements and the rule will have no fiscal impact on any other unit of state or local government.

Public Participation and Workgroup Information

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Christine Pedersen, Regulatory Development Section, Office of Air Quality at (317) 233-6868 or (800) 451-6027 (in Indiana).

Small Business Assistance Information

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

www.in.gov/idem/compliance/ctap/index.html

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Christina Lowry
IDEM Compliance and Technical Assistance Program
OPPTA - MC60-04
100 North Senate Avenue
W-041
Indianapolis, IN 46204-2251
(317) 234-1191
clowry@idem.in.gov

The Small Business Assistance Program Ombudsman is:

Megan Tretter
IDEM Small Business Assistance Program Ombudsman
MC 50-01 - IGCN 1307
100 North Senate Avenue
Indianapolis, IN 46204-2251
(317) 234-3386
mtretter@idem.in.gov

FINDINGS

The commissioner of IDEM has prepared findings regarding rulemaking on attainment and nonattainment designations for the 8-hour ozone NAAQS as required by federal rule. These findings are prepared under [IC 13-14-9-8](#) and are as follows:

- (1) This rule is the direct adoption of federal requirements that are applicable to Indiana, and it contains no amendments that have a substantive effect on the scope or intended application of the federal rule.
- (2) Indiana must adopt the federal redesignation of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby counties to attainment so that air permits for the applicable emission in these counties can be issued under the prevention of significant deterioration (PSD) program, rather than the

emission offset program.

(3) The public will benefit from prompt adoption of the federal redesignation of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby counties because it will provide consistency with the federal rule that redesignated these counties to attainment for the 8-hour ozone NAAQS.

(4) I have determined that under the specific circumstances pertaining to this rule, there would be no benefit to the environment or to persons to be regulated or otherwise affected by this rule from a second public comment period and first public hearing.

(5) The draft rule is hereby incorporated into these findings.

Thomas W. Easterly
Commissioner
Indiana Department of Environmental Management

REQUEST FOR PUBLIC COMMENTS

This notice requests the submission of comments on the draft rule language, including suggestions for specific revisions to language to be contained in the rule. Mailed comments should be addressed to:

#07-840(APCB) Central Indiana Ozone Redesignation
Christine Pedersen Mail Code 61-50
c/o Administrative Assistant
Rules Development Section
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204

Hand delivered comments will be accepted by the receptionist on duty at the tenth floor east reception desk, Office of Air Quality, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

COMMENT PERIOD DEADLINE

Comments must be postmarked, faxed, or hand delivered by January 18, 2008.

Additional information regarding this action may be obtained from Christine Pedersen, Rules Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

DRAFT RULE

SECTION 1. [326 IAC 1-4-7](#), PROPOSED TO BE ADDED AT [20070801-IR-326070308FDA](#), SECTION 7, IS AMENDED TO READ AS FOLLOWS:

[326 IAC 1-4-7](#) Boone County

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#); [IC 13-17-3-14](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 7. The following attainment status designations are applicable to Boone County:

Pollutant	Designation
SO ₂	Better than national standards.
CO	Unclassifiable or attainment as of effective November 15, 1990.
O ₃	Attainment effective October 19, 2007 , for the 8-hour ozone standard. ¹
PM ₁₀	Unclassifiable as of effective November 15, 1990.
NO ₂	Cannot be classified or is better than national standards.
Pb	Not designated.
¹ Unclassifiable or attainment as of effective October 18, 2000, for the 1-hour ozone standard , which was revoked effective June 15, 2005. for the 1-hour ozone standard.	

(Air Pollution Control Board; [326 IAC 1-4-7](#))

SECTION 2. [326 IAC 1-4-30](#), PROPOSED TO BE ADDED AT [20070801-IR-326070308FDA](#), SECTION 30, IS AMENDED TO READ AS FOLLOWS:

[326 IAC 1-4-30](#) Hamilton County

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#); [IC 13-17-3-14](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 30. The following attainment status designations are applicable to Hamilton County:

Pollutant	Designation
SO ₂	Better than national standards.
CO	Unclassifiable or attainment as of effective November 15, 1990.
O ₃	Attainment effective October 19, 2007 , for the 8-hour ozone standard. ¹
PM ₁₀	Unclassifiable effective November 15, 1990.
NO ₂	Cannot be classified or is better than national standards.
Pb	Not designated.
¹ Unclassifiable or attainment as of effective October 18, 2000, for the 1-hour ozone standard , which was revoked effective June 15, 2005. for the 1-hour ozone standard.	

(Air Pollution Control Board; [326 IAC 1-4-30](#))

SECTION 3. [326 IAC 1-4-31](#), PROPOSED TO BE ADDED AT [20070801-IR-326070308FDA](#), SECTION 31, IS AMENDED TO READ AS FOLLOWS:

[326 IAC 1-4-31](#) Hancock County

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#); [IC 13-17-3-14](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 31. The following attainment status designations are applicable to Hancock County:

Pollutant	Designation
SO ₂	Better than national standards.
CO	Unclassifiable or attainment as of effective November 15, 1990.
O ₃	Attainment effective October 19, 2007 , for the 8-hour ozone standard. ¹
PM ₁₀	Unclassifiable as of effective November 15, 1990.
NO ₂	Cannot be classified or is better than national standards.
Pb	Not designated.
¹ Unclassifiable or attainment as of effective October 18, 2000, for the 1-hour ozone standard , which was revoked effective June 15, 2005. for the 1-hour ozone standard.	

(Air Pollution Control Board; [326 IAC 1-4-31](#))

SECTION 4. [326 IAC 1-4-33](#), PROPOSED TO BE ADDED AT [20070801-IR-326070308FDA](#), SECTION 33, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-4-33 Hendricks County**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#); [IC 13-17-3-14](#)**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 33. The following attainment status designations are applicable to Hendricks County:

Pollutant	Designation
SO ₂	Better than national standards.
CO	Unclassifiable or attainment as of effective November 15, 1990.
O ₃	Attainment effective October 19, 2007 , for the 8-hour ozone standard. ¹
PM ₁₀	Unclassifiable as of effective November 15, 1990.
NO ₂	Cannot be classified or is better than national standards.
Pb	Not designated.
¹ Unclassifiable or attainment as of effective October 18, 2000, for the 1-hour ozone standard , which was revoked effective June 15, 2005. for the 1-hour ozone standard.	

(Air Pollution Control Board; [326 IAC 1-4-33](#))

SECTION 5. [326 IAC 1-4-42](#), PROPOSED TO BE ADDED AT [20070801-IR-326070308FDA](#), SECTION 42, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-4-42 Johnson County**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#); [IC 13-17-3-14](#)**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 42. The following attainment status designations are applicable to Johnson County:

Pollutant	Designation
SO ₂	Better than national standards.
CO	Unclassifiable or attainment as of effective November 15, 1990.
O ₃	Attainment effective October 19, 2007 , for the 8-hour ozone standard. ¹
PM ₁₀	Unclassifiable as of effective November 15, 1990.
NO ₂	Cannot be classified or is better than national standards.
Pb	Not designated.
¹ Unclassifiable or attainment as of effective October 18, 2000, for the 1-hour ozone standard , which was revoked effective June 15, 2005. for the 1-hour ozone standard.	

(Air Pollution Control Board; [326 IAC 1-4-42](#))

SECTION 6. [326 IAC 1-4-49](#), PROPOSED TO BE ADDED AT [20070801-IR-326070308FDA](#), SECTION 49, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-4-49 Madison County**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#); [IC 13-17-3-14](#)**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 49. The following attainment status designations are applicable to Madison County:

Pollutant	Designation
SO ₂	Better than national standards.
CO	Unclassifiable or attainment as of effective November 15, 1990.
O ₃	Attainment effective October 19, 2007 , for the 8-hour ozone standard. ¹
PM ₁₀	Unclassifiable as of effective November 15, 1990.
NO ₂	Cannot be classified or is better than national standards.
Pb	Not designated.
¹ Unclassifiable or attainment as of effective October 18, 2000, for the 1-hour ozone standard , which was revoked effective June 15, 2005. for the 1-hour ozone standard.	

(Air Pollution Control Board; [326 IAC 1-4-49](#))

SECTION 7. [326 IAC 1-4-50](#), PROPOSED TO BE ADDED AT [20070801-IR-326070308FDA](#), SECTION 50, IS AMENDED TO READ AS FOLLOWS:

[326 IAC 1-4-50](#) Marion County

Authority: [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#); [IC 13-17-3-14](#)

Affected: [IC 13-15](#); [IC 13-17](#)

Sec. 50. The following attainment status designations are applicable to Marion County:

Pollutant	Designation
SO ₂	Better than national standards.
CO	(A) Attainment effective February 18, 2000, to include for the part of the city of Indianapolis in an area bounded by 11 th Street on the north; Capitol Avenue on the west; Georgia Street on the south; and Delaware Street on the east. and (B) Unclassifiable or attainment effective November 15, 1990, for the remainder of Indianapolis and Marion County. is unclassifiable or attainment.
O ₃	Attainment effective October 19, 2007 , for the 8-hour ozone standard. ¹
PM ₁₀	Unclassifiable as of effective November 15, 1990.
NO ₂	Cannot be classified or is better than national standards.
Pb	(A) Attainment effective July 10, 2000, for the part of Franklin Township that includes bounded by Thompson Road on the south; Emerson Avenue on the west; Five Points Road on the east; and Troy Avenue on the north. and (B) Attainment effective July 10, 2000, for the part of Wayne Township that includes bounded by Rockville Road on the north; Girls School Road on the east; Washington Street on the south; and Bridgeport Road on the west. The remainder of the county is not designated.
¹ Attainment as of effective October 18, 2000, for the 1-hour ozone standard for the Indianapolis area, including Marion County, and is a maintenance area for the 1-hour ozone National Ambient Air Quality Standards (NAAQS) for purposes of 40 CFR 51, Subpart X*. The 1-hour designation was revoked effective June 15, 2005.	

*These documents are incorporated by reference. Copies referenced in this section may be obtained from the Government Printing Office, 732 North Capitol Street NW, Washington, D.C. 20401 or are available for review and copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, Tenth Floor, 100 North Senate Avenue, Indianapolis, Indiana 46204.

(Air Pollution Control Board; [326 IAC 1-4-50](#))

SECTION 8. [326 IAC 1-4-56](#), PROPOSED TO BE ADDED AT [20070801-IR-326070308FDA](#), SECTION 56, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-4-56 Morgan County**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#); [IC 13-17-3-14](#)**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 56. The following attainment status designations are applicable to Morgan County:

Pollutant	Designation
SO ₂	Better than national standards.
CO	Unclassifiable or attainment as of effective November 15, 1990.
O ₃	Attainment effective October 19, 2007 , for the 8-hour ozone standard. ¹
PM ₁₀	Unclassifiable as of effective November 15, 1990.
NO ₂	Cannot be classified or is better than national standards.
Pb	Not designated.
¹ Unclassifiable or attainment as of effective October 18, 2000, for the 1-hour ozone standard , which was revoked effective June 15, 2005. for the 1-hour ozone standard.	

(Air Pollution Control Board; [326 IAC 1-4-56](#))

SECTION 9. [326 IAC 1-4-73](#), PROPOSED TO BE ADDED AT [20070801-IR-326070308FDA](#), SECTION 73, IS AMENDED TO READ AS FOLLOWS:

326 IAC 1-4-73 Shelby County**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#); [IC 13-17-3-14](#)**Affected:** [IC 13-15](#); [IC 13-17](#)

Sec. 73. The following attainment status designations are applicable to Shelby County:

Pollutant	Designation
SO ₂	Better than national standards.
CO	Unclassifiable or attainment as of effective November 15, 1990.
O ₃	Attainment effective October 19, 2007 , for the 8-hour ozone standard. ¹
PM ₁₀	Unclassifiable as of effective November 15, 1990.
NO ₂	Cannot be classified or is better than national standards.
Pb	Not designated.
¹ Unclassifiable or attainment as of effective October 18, 2000, for the 1-hour ozone standard , which was revoked effective June 15, 2005. for the 1-hour ozone standard.	

(Air Pollution Control Board; [326 IAC 1-4-73](#))

[Notice of Public Hearing](#)

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